

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

THICCC BOY PRODUCTIONS INC.

Plaintiff,

v.

KYLE SWINDELLES a/k/a YEW NEEK
NESS; and DOES 1 through 10,

Defendants.

Case No. 1:22-cv-00090-MSM-PAS

DECLARATION OF THOMAS SANTOLI

I, Thomas Santoli, state and declare as follows:

1. I am the Chief Operating Officer at Bent Pixels. Bent Pixels manages the YouTube channels for, among others, Thiccc Boy Productions Inc. (“Thiccc Boy”), the Plaintiff in this matter. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently thereto.

2. Thiccc Boy is a production company that produces episodes of the podcast titled *The Fighter and the Kid* (the “Podcast”).

3. On the Podcast, the hosts, including Brendan Schaub and Bryan Callen, have interviewed a variety of individuals, including Navy Seals, NFL Players, MMA fighters, comedians, and others.

4. Episodes 725, 726, 729, and 740 were hosted by Brendan Schaub, Bryan Callen, and Shapel Lacey.

5. In addition to the Podcast, Plaintiff has other channels on YouTube. One of those channels is for highlights of the Podcast, entitled “TFATK Clip Channel Highlights” (the “Highlights Channel”), which can be found at

<https://www.youtube.com/c/TheFighterandTheKidClips>

6. Plaintiff started the Highlights Channel on or around July 9, 2018, well before Defendant started his YouTube channel.

7. As of July 31, 2023, there are over 1,100 clips on the Highlights Channel. Each clip is a short segment from the Podcast, most ranging between 2 and 12 minutes. For the longer videos, there are typically chapter stops, allowing viewers to watch only the segment(s) they want.

8. Around the time each episode to the Podcast is uploaded to YouTube, Plaintiff (or Bent Pixels on Plaintiff’s behalf) uploads clip(s) from that episode to the Highlight Channel.

9. Plaintiff uploaded clips to the Highlight Channel for each of Episodes 725, 726, 729 and 740.

10. One of the clips for Episode 725 uploaded to the Highlight Channel can be found at <https://www.youtube.com/watch?v=jC7yPUaI9pk> (“Highlight Clip 1”). Highlight Clip 1 has a total duration of 10:03. Other than approximately the first 2:20 of Highlight Clip 1, substantially all of Highlight Clip 1’s audio-visual content is incorporated in Video 1.

11. One of the clips for Episode 729 uploaded to the Highlight Channel can be found at <https://www.youtube.com/watch?v=QYEmgsFSWTo> (“Highlight Clip 2”). Highlight Clip 2 has a total duration of 7:01. All of Highlight Clip 2’s audio-visual content is incorporated in Video 3.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and accurate.

Dated: August 1, 2023

A handwritten signature in black ink, appearing to read 'Tom' followed by a stylized 'S' and 'K', is written over a horizontal line.

Thomas Santoli